

State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
2008

HOUSE BILL 2280

AN ACT

AMENDING SECTION 49-542, ARIZONA REVISED STATUTES; RELATING TO VEHICLE
EMISSIONS TESTING; PROVIDING FOR CONDITIONAL ENACTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 49-542, Arizona Revised Statutes, is amended to
3 read:

4 49-542. Emissions inspection program: powers and duties of
5 director: administration: periodic inspection:
6 minimum standards and rules: exceptions: definition

7 A. The director shall administer a comprehensive annual or biennial
8 emissions inspection program which shall require the inspection of vehicles
9 in this state pursuant to this article and applicable administrative rules.
10 Such inspection is required in area A and area B, for those vehicles owned by
11 a person who is subject to section 15-1444 or 15-1627 and for those vehicles
12 registered outside of area A or area B but used to commute to the driver's
13 principal place of employment located within area A or area B. Inspection in
14 other counties of the state shall commence upon application by a county board
15 of supervisors for participation in such inspection program, subject to
16 approval by the director. In all counties with a population of three hundred
17 fifty thousand or fewer persons according to the most recent United States
18 decennial census, except for the portion of counties that contain any portion
19 of area A, the director shall as conditions dictate provide for testing to
20 determine the effect of vehicle related pollution on ambient air quality in
21 all communities with a metropolitan area population of twenty thousand
22 persons or more according to the most recent United States decennial census.
23 If such testing detects the violation of state ambient air quality standards
24 by vehicle related pollution, the director shall forward a full report of
25 such violation to the president of the senate, the speaker of the house of
26 representatives and the governor.

27 B. The state's annual or biennial emissions inspection program shall
28 provide for vehicle inspections at official emissions inspection stations or
29 at fleet emissions inspection stations. Each inspection station in area A
30 shall employ at least one mechanic who is available during the station's
31 hours of operation to provide technical advice and assistance for persons who
32 fail the emissions test. The director may enter into agreements with the
33 department of transportation or with county assessors for the use of official
34 emissions inspection stations for the purpose of conducting vehicle
35 registrations. An official or fleet emissions inspection station permit
36 shall not be sold, assigned, transferred, conveyed or removed to another
37 location except on such terms and conditions as the director may prescribe.

38 C. Vehicles required to be inspected and registered in this state,
39 except those provided for in section 49-546, shall be inspected, for the
40 purpose of complying with the registration or reregistration requirement
41 pursuant to subsection D of this section, in accordance with the provisions
42 of this article no more than ninety days prior to each reregistration
43 expiration date. A vehicle may be submitted voluntarily for inspection more
44 than ninety days before the reregistration expiration date on payment of the
45 prescribed inspection fee. Such voluntary inspection shall not be considered

1 as compliance with the registration or reregistration requirement pursuant to
2 subsection D of this section.

3 D. A vehicle shall not be registered or reregistered until such
4 vehicle has passed the emissions inspection, the tampering inspection
5 prescribed in subsection G of this section and the liquid fuel leak
6 inspection prescribed in subsection Z of this section or has been issued a
7 certificate of waiver. A certificate of waiver shall only be issued one time
8 to a vehicle after January 1, 1997. If any vehicle to be registered or
9 reregistered is being sold by a dealer licensed to sell motor vehicles
10 pursuant to title 28, the cost of any inspection and any repairs necessary to
11 pass the inspection shall be borne by the dealer. A dealer who is licensed
12 to sell motor vehicles pursuant to title 28 and whose place of business is
13 located in area A or area B shall not deliver any vehicle to the retail
14 purchaser until the vehicle passes any inspection required by this article or
15 the vehicle is exempt under subsection J of this section.

16 E. On the registration or reregistration of a vehicle which has
17 complied with the minimum emissions standards pursuant to this section or is
18 otherwise exempt under this section, the registering officer shall issue an
19 air quality compliance sticker to the registered owner which shall be placed
20 on the vehicle as prescribed by rule adopted by the department of
21 transportation or issue a modified year validating tab as prescribed by rule
22 adopted by the department of transportation. Those persons who reside
23 outside of area A or area B but who elect to test their vehicle or are
24 required to test their vehicle pursuant to this section and who comply with
25 the minimum emissions standards pursuant to this section or are otherwise
26 exempt under this section shall remit a compliance form, as prescribed by the
27 department of transportation, and proof of compliance issued at an official
28 emissions inspection station to the department of transportation along with
29 the appropriate fees. The department of transportation shall then issue the
30 person an air quality compliance sticker which shall be placed on the vehicle
31 as prescribed by rule adopted by the department of transportation. The
32 registering officer or the department of transportation shall collect an air
33 quality compliance fee of twenty-five cents. The registering officer or the
34 department of transportation shall deposit, pursuant to sections 35-146 and
35 35-147, the air quality compliance fee in the state highway fund established
36 by section 28-6991. The department of transportation shall deposit, pursuant
37 to sections 35-146 and 35-147, any emissions inspection fee in the emissions
38 inspection fund. The provisions of this subsection do not apply to those
39 vehicles registered pursuant to title 28, chapter 7, article 7 or 8, the sale
40 of vehicles between motor vehicle dealers or vehicles leased to a person
41 residing outside of area A or area B by a leasing company whose place of
42 business is in area A or area B.

43 F. The director shall adopt minimum emissions standards pursuant to
44 section 49-447 with which the various classes of vehicles shall be required
45 to comply as follows:

1 1. For the purpose of determining compliance with minimum emissions
2 standards in area B:

3 (a) A motor vehicle manufactured in or before the 1980 model year,
4 other than a diesel powered vehicle, shall be required to take and pass the
5 curb idle test condition. A diesel powered vehicle is subject to only a
6 loaded test condition. The conditioning mode shall, at the option of the
7 vehicle owner or owner's agent, be administered only after the vehicle has
8 failed the curb idle test condition. Upon completion of such conditioning
9 mode, a vehicle that has failed the curb idle test condition may be retested
10 in the curb idle test condition. If the vehicle passes such retest, it shall
11 be deemed in compliance with minimum emissions standards unless the vehicle
12 fails the tampering inspection pursuant to subsection G of this section or
13 the liquid fuel leak inspection pursuant to subsection Z of this section.

14 (b) A motor vehicle manufactured in or after the 1981 model year,
15 other than a diesel powered vehicle, shall be required to take and pass the
16 curb idle test condition and the loaded test condition or an onboard
17 diagnostic check as may be required pursuant to title II of the clean air
18 act.

19 2. For purposes of determining compliance with minimum emissions
20 standards and functional tests in area A:

21 (a) Motor vehicles manufactured in or after model year 1981 with a
22 gross vehicle weight rating of eighty-five hundred pounds or less, other than
23 diesel powered vehicles, shall be required to take and pass a transient
24 loaded emissions test or an onboard diagnostic check as may be required
25 pursuant to title II of the clean air act.

26 (b) Motor vehicles other than those prescribed by subdivision (a) of
27 this paragraph and other than diesel powered vehicles shall be required to
28 take and pass a steady state loaded test and a curb idle emissions test.

29 (c) A diesel powered motor vehicle applying for registration or
30 reregistration in area A shall be required to take and pass an annual
31 emissions test conducted at an official emissions inspection station or a
32 fleet emissions inspection station as follows:

33 (i) A loaded, transient or any other form of test as provided for in
34 rules adopted by the director for vehicles with a gross vehicle weight rating
35 of eight thousand five hundred pounds or less.

36 (ii) A test that conforms with the society for automotive engineers
37 standard J1667 for vehicles with a gross vehicle weight rating of more than
38 eight thousand five hundred pounds.

39 (d) Motor vehicles by specific class or model year shall be required
40 to take and pass any of the following tests:

41 (i) An evaporative system purge test.

42 (ii) An evaporative system integrity test.

43 (e) An onboard diagnostic check ~~as~~ may be required pursuant to title
44 II of the clean air act.

1 3. ~~A motorcycle in area A or~~ Any constant four wheel drive vehicle
2 shall be required to take and pass a curb idle emissions test or an onboard
3 diagnostic check as required pursuant to title II of the clean air act.

4 4. Fleet operators in area B must comply with this section, except
5 that used vehicles sold by a motor vehicle dealer who is a fleet operator and
6 who has been issued a permit under section 49-546 shall be tested as follows:

7 (a) A motor vehicle manufactured in or before the 1980 model year
8 shall take and pass only the curb idle test condition, except that a diesel
9 powered vehicle is subject to only a loaded test condition.

10 (b) A motor vehicle manufactured in or after the 1981 model year shall
11 take and pass the curb idle test condition and a twenty-five hundred
12 revolutions per minute unloaded test condition.

13 5. Vehicles owned or operated by the United States, this state or a
14 political subdivision of this state shall comply with this subsection without
15 regard to whether those vehicles are required to be registered in this state,
16 except that alternative fuel vehicles of a school district that is located in
17 area A shall be required to take and pass the curb idle test condition and
18 the loaded test condition.

19 6. Fleet operators in area A shall comply with this section, except
20 that used vehicles sold by a motor vehicle dealer who is a fleet operator and
21 who has been issued a permit pursuant to section 49-546 for purposes of
22 determining compliance with minimum emission standards in area A shall be
23 tested as follows:

24 (a) A motor vehicle manufactured in or before the 1980 model year
25 shall take and pass the curb idle test condition, except that a diesel
26 powered vehicle is subject to only a loaded test condition.

27 (b) A motor vehicle manufactured in or after the 1981 model year shall
28 take and pass the curb idle test condition and a two thousand five hundred
29 revolutions per minute unloaded test condition.

30 7. Beginning on January 1, 2004 and except for any registered owner or
31 lessee of a fleet of less than twenty-five vehicles, a diesel powered motor
32 vehicle with a gross vehicle weight of more than twenty-six thousand pounds
33 and for which gross weight fees are paid pursuant to title 28, chapter 15,
34 article 2 in area A shall not be allowed to operate in area A unless it was
35 manufactured in or after the 1988 model year or is powered by an engine that
36 is certified to meet or surpass emissions standards contained in 40 Code of
37 Federal Regulations section 86.088-11. This paragraph does not apply to
38 vehicles that are registered pursuant to title 28, chapter 7, article 7 or 8.

39 8. Beginning on January 1, 2006 for any registered owner or lessee of
40 a fleet of less than twenty-five vehicles, a diesel powered motor vehicle
41 with a gross vehicle weight of more than twenty-six thousand pounds and for
42 which gross weight fees are paid pursuant to title 28, chapter 15, article 2
43 in area A shall not be allowed to operate in area A unless it was
44 manufactured in or after the 1988 model year or is powered by an engine that
45 is certified to meet or surpass emissions standards contained in 40 Code of

1 Federal Regulations section 86.088-11. This paragraph does not apply to
2 vehicles that are registered pursuant to title 28, chapter 7, article 7 or 8.

3 G. In addition to an emissions inspection, a vehicle is subject to a
4 tampering inspection on at least a biennial basis if the vehicle was
5 manufactured after the 1974 model year and the vehicle is not subject to a
6 transient loaded emissions test or an onboard diagnostic check as required
7 pursuant to title II of the clean air act. The director shall adopt vehicle
8 configuration guidelines for the tampering inspection which shall be based on
9 the original configuration of the vehicle when manufactured. The tampering
10 inspection shall consist of the following:

11 1. A visual check to determine the presence of properly installed
12 catalytic converters.

13 2. An examination to determine the presence of an operational air
14 pump.

15 3. In area A, if the vehicle was manufactured after the 1974 model
16 year and is not subject to a transient loaded emissions test or an onboard
17 diagnostic check as required pursuant to title II of the clean air act, a
18 visual inspection for the presence or malfunction of the positive crankcase
19 ventilation system and the evaporative control system.

20 H. Vehicles required to be inspected shall undergo a functional test
21 of the gas cap to determine if the cap holds pressure within limits
22 prescribed by the director, except for any vehicle that is subject to an
23 evaporative system integrity test.

24 I. Motor vehicles failing the initial or subsequent test are not
25 subject to a penalty fee for late registration renewal if the original
26 testing was accomplished before the expiration date and if the registration
27 renewal is received by the motor vehicle division or the county assessor
28 within thirty days of the original test.

29 J. The director may adopt rules for purposes of implementation,
30 administration, regulation and enforcement of the provisions of this article
31 including:

32 1. The submission of records relating to the emissions inspection of
33 vehicles inspected by another jurisdiction in accordance with another
34 inspection law and the acceptance of such inspection for compliance with the
35 provisions of this article.

36 2. The exemption from inspection of:

37 (a) A motor vehicle manufactured in or before the 1966 model year.

38 (b) New vehicles originally registered at the time of initial retail
39 sale and titling in this state pursuant to section 28-2153 or 28-2154.

40 (c) Vehicles registered pursuant to title 28, chapter 7, article 7
41 or 8.

42 (d) New vehicles before the sixth registration year after initial
43 purchase or lease.

44 (e) Vehicles which will not be available within the state during the
45 ninety days prior to registration.

- 1 (f) Golf carts.
- 2 (g) Electrically-powered vehicles.
- 3 (h) Vehicles with an engine displacement of less than ninety cubic
- 4 centimeters.
- 5 (i) The sale of vehicles between motor vehicle dealers.
- 6 (j) Vehicles leased to a person residing outside of area A or area B
- 7 by a leasing company whose place of business is in area A or area B.
- 8 (k) Collectible vehicles.
- 9 (l) Motorcycles ~~in area B~~.

10 3. Compiling and maintaining records of emissions test results after

11 servicing.

12 4. A procedure which shall allow the vehicle service and repair

13 industry to compare the calibration accuracy of its emissions testing

14 equipment with the department's calibration standards.

15 5. Training requirements for automotive repair personnel using

16 emissions measuring equipment whose calibration accuracy has been compared

17 with the department's calibration standards.

18 6. Any other rule which may be required to accomplish the provisions

19 of this article.

20 K. The director ~~shall~~, after consultation with automobile

21 manufacturers and the vehicle service and repair industry, ~~shall~~ establish by

22 rule a definition of "low emissions tune-up" for motor vehicles subject to

23 inspection under this article. The definition shall specify repair

24 procedures which, when implemented, will reduce vehicle emissions.

25 L. The director shall adopt rules which specify that the estimated

26 retail cost of all recommended maintenance and repairs shall not exceed the

27 amounts prescribed in this subsection, except that if a vehicle fails a

28 tampering inspection there is no limit on the cost of recommended maintenance

29 and repairs. The director shall issue a certificate of waiver for a vehicle

30 which has failed reinspection, if the director has determined that all

31 recommended maintenance and repairs have been performed. If, after

32 reinspection, the director has determined that the vehicle is in compliance

33 with minimum emissions standards or that all recommended maintenance and

34 repairs for compliance with minimum emissions standards have been performed,

35 but that tampering discovered at a tampering inspection has not been

36 repaired, the director may issue a certificate of waiver if the owner of the

37 vehicle provides to the director a written statement from an automobile parts

38 or repair business that an emissions control device which is necessary to

39 repair the tampering is not available and cannot be obtained from any usual

40 source of supply before the vehicle's current registration expires. Rules

41 adopted by the director for the purpose of establishing the estimated retail

42 cost of all recommended maintenance and repairs pursuant to this subsection

43 shall specify that:

44 1. In area A the cost shall not exceed:

1 (a) Five hundred dollars for a diesel powered vehicle with a gross
2 weight in excess of twenty-six thousand pounds.

3 (b) Five hundred dollars for a diesel powered vehicle with tandem
4 axles.

5 (c) For a vehicle other than a diesel powered vehicle with a gross
6 weight in excess of twenty-six thousand pounds and other than a diesel
7 powered vehicle with tandem axles:

8 (i) Two hundred dollars for such a vehicle manufactured in or before
9 the 1974 model year.

10 (ii) Three hundred dollars for such a vehicle manufactured in the 1975
11 through 1979 model years.

12 (iii) Four hundred fifty dollars for such a vehicle manufactured in or
13 after the 1980 model year.

14 2. In area B the cost shall not exceed:

15 (a) Three hundred dollars for a diesel powered vehicle with a gross
16 weight in excess of twenty-six thousand pounds.

17 (b) Three hundred dollars for a diesel powered vehicle with tandem
18 axles.

19 3. For a vehicle other than a diesel powered vehicle with a gross
20 weight in excess of twenty-six thousand pounds and other than a diesel
21 powered vehicle with tandem axles:

22 (a) Fifty dollars for such a vehicle manufactured in or before the
23 1974 model year.

24 (b) Two hundred dollars for such a vehicle manufactured in the 1975
25 through 1979 model years.

26 (c) Three hundred dollars for such a vehicle manufactured in or after
27 the 1980 model year.

28 M. Each person whose vehicle has failed an emissions inspection shall
29 be provided a list of those general recommended tune-up procedures for
30 vehicles which are designed to reduce vehicle emissions levels. The list
31 shall include the following notice: "This test is the result of federal
32 law. You may wish to contact your representative in the United States
33 Congress."

34 N. Notwithstanding any other provisions of this article, the director
35 may adopt rules allowing exemptions from the requirement that all vehicles
36 must meet the minimum standards for registration or reregistration.

37 O. The director of environmental quality shall establish, in
38 cooperation with the assistant director for the motor vehicle division of the
39 department of transportation:

40 1. An adequate method for identifying bona fide residents residing
41 outside of area A or area B to ensure that such residents are exempt from
42 compliance with the inspection program established by this article and rules
43 adopted under this article.

44 2. A written notice that shall accompany the vehicle registration
45 application forms that are sent to vehicle owners pursuant to section 28-2151

1 and that shall accompany or be included as part of the vehicle emissions test
2 results that are provided to vehicle owners at the time of the vehicle
3 emissions test. This written notice shall describe at least the following:

4 (a) The restriction of the waiver program to one time per vehicle and
5 a brief description of the implications of this limit.

6 (b) The availability and a brief description of the vehicle repair and
7 retrofit program established pursuant to section 49-474.03.

8 (c) Notice that many vehicles carry extended warranties for vehicle
9 emissions systems, and those warranties are described in the vehicle's
10 owner's manual or other literature.

11 (d) A description of the catalytic converter replacement program
12 established pursuant to section 49-474.03.

13 P. Notwithstanding any other law, if area A or area B is reclassified
14 as an attainment area, emissions testing conducted pursuant to this article
15 shall continue for vehicles registered inside that reclassified area,
16 vehicles owned by a person who is subject to section 15-1444 or 15-1627 and
17 vehicles registered outside of that reclassified area but used to commute to
18 the driver's principal place of employment located within that reclassified
19 area.

20 Q. A fleet operator who is issued a permit pursuant to section 49-546
21 may electronically transmit emissions inspection data to the department of
22 transportation pursuant to rules adopted by the director of the department of
23 transportation in consultation with the director of environmental quality.

24 R. The director shall prohibit a certificate of waiver pursuant to
25 subsection L of this section for any vehicle which has failed inspection in
26 area A due to the catalytic converter system.

27 S. The director shall establish provisions for rapid testing of
28 certain vehicles and to allow fleet operators, singly or in combination, to
29 contract directly for vehicle emissions testing.

30 T. Each vehicle emissions control station in area A shall have a sign
31 posted to be visible to persons who are having their vehicles tested. This
32 sign shall state that enhanced testing procedures are a direct result of
33 federal law.

34 U. The initial adoption of rules pursuant to this section shall be
35 deemed emergency rules pursuant to section 41-1026.

36 V. The director of environmental quality and the director of the
37 department of transportation shall implement a system to exchange information
38 relating to the waiver program, including information relating to vehicle
39 emissions test results and vehicle registration information.

40 W. Any person who sells a vehicle that has been issued a certificate
41 of waiver pursuant to this section after January 1, 1997 and who knows that a
42 certificate of waiver has been issued after January 1, 1997 for that vehicle
43 shall disclose to the buyer before completion of the sale that a certificate
44 of waiver has been issued for that vehicle.

1 X. Vehicles that fail the emissions test at emission levels higher
2 than twice the standard established for that vehicle class by the department
3 pursuant to section 49-447 are not eligible for a certificate of waiver
4 pursuant to this section unless the vehicle is repaired sufficiently to
5 achieve an emissions level below twice the standard for that class of
6 vehicle.

7 Y. If an insurer notifies the department of transportation of the
8 cancellation or nonrenewal of collectible vehicle or classic automobile
9 insurance coverage for a collectible vehicle, the department of
10 transportation shall cancel the registration of the vehicle and the vehicle's
11 exemption from emissions testing pursuant to this section unless evidence of
12 coverage is presented to the department of transportation within sixty days.

13 Z. In addition to an emissions inspection, a vehicle is subject to a
14 liquid fuel leak inspection on at least a biennial basis if the vehicle was
15 manufactured after the 1974 model year and is not a diesel vehicle. The
16 director shall adopt rules prescribing procedures and standards for the
17 liquid fuel leak inspection.

18 AA. For the purposes of this section, "collectible vehicle" means a
19 vehicle that complies with both of the following:

20 1. Either:

21 (a) Bears a model year date of original manufacture that is at least
22 fifteen years old.

23 (b) Is of unique or rare design, of limited production and an object
24 of curiosity.

25 2. Meets both of the following criteria:

26 (a) Is maintained primarily for use in car club activities,
27 exhibitions, parades or other functions of public interest or for a private
28 collection and is used only infrequently for other purposes.

29 (b) Has a collectible vehicle or classic automobile insurance coverage
30 that restricts the collectible vehicle mileage or use, or both, and requires
31 the owner to have another vehicle for personal use.

32 Sec. 2. Conditional enactment; notice

33 A. Section 49-542, Arizona Revised Statutes, as amended by this act,
34 does not become effective unless on or before July 1, 2010 the United States
35 environmental protection agency issues a vehicle emissions testing exemption
36 for motorcycles in area A for purposes of the state implementation or
37 maintenance plan for air quality.

38 B. The director of the department of environmental quality shall
39 promptly notify in writing the director of the Arizona legislative council of
40 the date on which the condition prescribed in subsection A of this section is
41 met or if the condition is not met.